

BUDGET LETTER

		NUMBER:	04-27
SUBJECT: CONTROL SECTION 11.00—INFORMATION TECHNOLOGY CONTRACTS CONTROL SECTION 11.10—STATEWIDE SOFTWARE LICENSE AGREEMENTS		DATE ISSUED:	August 31, 2004
REFERENCES: BUDGET ACT OF 2004 (CHAPTER 208, STATUTES OF 2004)		SUPERSEDES:	BL 03-31

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Note: Please forward a copy of this budget letter (BL) to your department's/Agency's Chief Information Officer.

Purpose

Pursuant to Control Section 11.00 and Control Section 11.10 of the 2004 Budget Act, certain information technology (IT) contracts, statewide software licensing agreements, and their associated amendments must be reported to the Legislature. The reporting must be made prior to entering into a contract or agreement that exceeds specific dollar thresholds approved for the project or the statewide software licensing business proposal.

Control Section 11.00 is the Legislature's means of being informed of IT contractual agreements under consideration that will continue beyond the current and budget years and may necessitate budget augmentations and/or redirections in **future** years. Control Section 11.10 is the Legislature's means of being informed of statewide software licensing agreements that have not been previously approved by the Legislature, that obligate State funds in the current year or future years, whether or not the obligation will result in a net expenditure or savings. A statewide software licensing agreement is defined as a software license contract that can be used by multiple State agencies. Control Section 11.00 and Control Section 11.10 reporting allows the Legislature opportunities to review future funding obligations and enterprise license commitments before they are made.

It is each department's responsibility to determine whether a project or license agreement meets the Control Section 11.00 and/or Control Section 11.10 reporting requirements. If the reporting requirements are not clear for any given project or enterprise license agreement, the department should err on the side of caution and notify the Department of Finance (Finance). After review and approval, Finance will notify the Legislature. Departments should be aware of the possible consequences of entering into an IT contract, statewide software licensing agreement, or their associated amendments that requires notification without providing such notification. If notification is not provided, and the Legislature later determines that notification should have been given, the project or enterprise agreement and its associated funding may be at risk.

Reporting Requirements and Applicability Test

Control Section 11.00 and Control Section 11.10 require Finance approval and 30-day notification to the Joint Legislative Budget Committee and the legislative fiscal committees prior to a State department entering into IT contracts, statewide software licensing agreements, or their associated amendments where all of the following criteria are met:

Reporting Requirements for Control Section 11.00

- 1) The budgeted cost of the project is subject to legislative review now or anytime in the future (i.e., there is a budget action associated with the project); and
- 2) The aggregate cost of the contract(s):
 - a) Totals \$500,000 or greater for a new project; or
 - b) Increases the approved project cost by \$500,000, or represents a 10 percent project cost increase that equals or exceeds \$100,000, whichever is less; and
- 3) A future year increase in the budgeted cost is required to cover the cost of a contract or contract amendment, and the cost is:
 - a) Not identified in a current year notification/modification submitted to the Legislature (e.g., Section 26.00, Section 28.00, or Section 28.50), or a budget year augmentation submitted to the Legislature (e.g., Finance Letter); or
 - b) Is included in one of the documents identified in (a) but the Legislature will not have the opportunity to act on the budget document prior to execution or contract amendment.

Control Section 11.00 reporting criteria apply to any IT contract or amendment or combination of contracts and amendments that would result in a total project increase. This is applicable whether the increase occurs in fiscal year 2004-05 or any subsequent fiscal year.

Reporting Requirements for Control Section 11.10

- 1) The proposed agreement is for a statewide software license that has not been previously approved by the Legislature, whether or not the obligation will result in a net expenditure or savings; and
- 2) The total amount of the proposed agreement or amendment is \$1,000,000 or greater in the aggregate.

In addition, **all** statewide software licensing agreements, regardless of the amount, require business proposals, which, at a minimum, must include the following information:

- 1) An analysis of the current installed base to be covered under the statewide software licensing agreement, including the software products, the license type, and the number of users associated with each license; and
- 2) Projections of anticipated use over the term of the agreement, again including the products to be covered under the agreement, the license type, and the number of users associated with each license. The business proposal must include the assumptions used to develop the projections; and

- 3) An analysis of feasible alternatives including a justification for selecting a statewide software licensing agreement over other alternatives such as a volume purchase agreement. The justification must include a detailed cost/benefit analysis comparing the proposed statewide software licensing agreement against the alternatives discussed; and
- 4) A cost allocation methodology and funding plan that explains how costs will be allocated across user departments and identifies the associated funding sources for each entity utilizing the agreement.

Statewide software licensing agreements exceeding the \$1,000,000 Control Section 11.10 reporting threshold require Finance approval of the business proposal. For statewide software licensing agreements and their associated amendments that do not exceed the \$1,000,000 Control Section 11.10 reporting threshold, approval of the business proposal is delegated to the department. Subsequent amendments that increase the agreement over the \$1,000,000 aggregate threshold require amended business proposals, which must be submitted to Finance for review and approval. In these cases, be prepared to provide copies of prior versions of business proposals prepared under your delegated authority if requested by Finance.

Control Section 11.00 and Control Section 11.10 Applicability Test

To determine the applicability of Control Section 11.00 for contract transactions or Control Section 11.10 for statewide software licensing agreements, Applicability Tests are included as Exhibits 1, 1a, and 1b. Each State department is responsible for determining applicability and submitting the necessary information to Finance if the contract transactions must be reported under the requirements of Control Section 11.00 or Control Section 11.10.

Submittal to Finance

To report transactions subject to Control Section 11.00, departments are required to complete and submit two copies of the completed Applicability Test (included as Exhibits 1 and 1a), and two copies of the form Control Sections 11.00/11.10 Application (included as Exhibit 2) to your Finance Office of Technology Review, Oversight, and Security (OTROS) manager. The Application form will serve as an attachment to a transmittal letter to the Legislature prepared by Finance following review and approval of the application.

To report transactions subject to Control Section 11.10, submit two copies of the business proposal to your OTROS manager. Business proposals must be signed by the Department Director (or designee), the Budget Officer, and the Chief Information Officer. Include with the business proposal two copies of the completed Applicability Test (included as Exhibits 1 and 1b), and two copies of the form Control Sections 11.00/11.10 Application (included as Exhibit 2). As with Control Section 11.00 reporting, the Application form included as Exhibit 2 will serve as an attachment to the transmittal letter to the Legislature prepared by Finance.

To report transactions subject to both Control Section 11.00 and Control Section 11.10, submit two copies of the business proposal and the completed Applicability Test (Exhibits 1, 1a, and 1b). However, each type of transaction must be reported on separate Application forms (Exhibit 2) (i.e., do not combine Control Section 11.00 and Control Section 11.10 reporting on the same Application form). Rather, complete one form for each type of transaction, and submit two copies of each transaction with the business proposal and Applicability Test.

The Control Sections 11.00/11.10 Applicability Test and Application forms are available online at the Finance BL website (<http://www.dof.ca.gov/html/budlettr/letters.htm>).

If you have any questions, please contact your OTROS manager at (916) 445-1777. A listing of OTROS managers and their departmental assignments can be found at the Finance web site located at: http://www.dof.ca.gov/HTML/OTROS/OTROS_assignments.htm.

/s/ Veronica Chung-Ng

Veronica Chung-Ng
Program Budget Manager

Attachments

**SECTION 11.00/11.10
APPLICABILITY TEST**

EXHIBIT 1

Are you considering a contract or contract amendment? Is this contract transaction associated with an information technology project or statewide software license agreement? If the answer to both these questions is yes, then you must carefully review the following Applicability Test to determine whether this transaction requires approval by the Department of Finance and 30-day notification to the Legislature under the terms of Control Section 11.00 or Control Section 11.10 of the Budget Act.

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|--|-------------------------------|------------------------------|
| 1. Is the department subject to Department of Finance review and approval of its budget? | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
| 2. Is the department subject to Section 4810 of the State Administrative Manual? | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
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If you answered **NO** to either item #1 or #2, no reporting is required for this contract transaction or statewide software license agreement under Control Sections 11.00 or 11.10 of the Budget Act. You may skip the remainder of this Applicability Test.

If you answered **YES** to **both** items (#1 and #2), your department must comply with either Control Section 11.00 or 11.10. Continue with this Applicability Test.

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|---|-------------------------------|------------------------------|
| 3. Is funding for this project subject to legislative review now or in the future? | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
| 4. Does the department intend to process a contract or contract amendment in the current fiscal year or budget year that is part of an information technology project?
<i>[Note: This test is to be applied to the date the contract or contract amendment is executed (date all signatures are obtained), regardless of the fiscal year in which the funding is needed/or available.]</i> | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
| 5. Does the department intend to process a statewide software license agreement or amendment that has not been previously approved by the Legislature? | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
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If you answered **NO** to item #3 or #4, no reporting is required for this contract transaction under Control Section 11.00 of the Budget Act. If you answered **NO** to item #5, no reporting is required for this transaction under Control Section 11.10 of the Budget Act. You may skip the remainder of this Applicability Test.

If you answered **YES** to items #3 and #4, your department must comply with Control Section 11.00. Complete the Section 11.00 Applicability Test, which follows as Exhibit 1a.

If you answered **YES** to item #5, your department must comply with Control Section 11.10. Complete the Section 11.10 Applicability Test, which follows as Exhibit 1b.

**SECTION 11.00
APPLICABILITY TEST**

- 1a. Will the increased budgeted cost of this contract or contract amendment in current year, budget year, and **out-years** be specifically identified in a budget document submitted to the Legislature during the current fiscal year (e.g., Section 26, Section 28, Section 28.5, Budget Change Proposal, Finance Letter). Yes: ☐ No: ☐
- 1b. Will the Legislature have the opportunity to act on the budget document prior to contract execution or contract amendment? Yes: ☐ No: ☐

If you answered **YES** to item #1a and item #1b, no reporting is required for this contract transaction under Control Section 11.00 of the Budget Act. You may skip the remainder of this Applicability Test.

If you answered **NO** to item #1a or **YES** to item #1a and **NO** to item #1b, continue to respond to the following items related to the information technology project associated with the contract or contract amendment.

2. What is the total approved project cost in the last Feasibility Study Report (FSR), Special Project Report (SPR) or equivalent document for this project prior to the inclusion of the contract(s) or contract amendment(s) that are the subject of this test? \$ _____
(From this item on, report all costs in **thousands of dollars**.)

3. Provide the following identifying information and approval reference data regarding the project:
Project Title and Number: _____

Finance-approved FSR or SPR	Date: _____
Department-approved (delegated) FSR or SPR	Date: _____

4. Is this a new contract? Yes: ☐ No: ☐

5. If you answered **YES** to item #4, what is the total amount of this new contract? \$: _____

6. What is the total amount of all new contracts associated with this information technology project that have been awarded since the last approved FSR or SPR and for which costs were not included in that approved FSR or SPR? (Do not include the amount identified in item #5) \$ _____

7. Is this a contract amendment? Yes: ☐ No: ☐

8. If you answered **YES** to item #7, what is the total amount of this contract amendment? \$ _____

9. What is the total increase in the dollar amount contained in all contract amendments for this information technology project that have been agreed to since the last approved FSR or SPR and whose costs were not included in that approved FSR or SPR? (Do not include the amount identified in item #8) \$ _____

10. Add the amounts identified in items #5, #6, #8, and #9 and place the total here. \$ _____

11. What is the total amount of any reduction to contracts or contract amendments associated with this information technology project that have been canceled or reduced since the last approved FSR or SPR and whose costs were included in that approved FSR or SPR? \$ _____

EXHIBIT 1a
continued

12. Subtract item #11 from item #10 and place the total here.

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13. Is the dollar amount from item #12 greater than \$500,000?

Yes: ☐

No: ☐

If you answered **YES** to item #13, you have determined that your transaction requires approval by the Department of Finance and 30-day notification to the Legislature under Control Section 11.00 of the Budget Act. You have completed this Applicability Test for Section 11.00.

If you answered **NO** to item #13, continue with this Applicability Test.

14. Is the dollar amount from item #12 greater than or equal to \$100,000?

Yes: ☐

No: ☐

If you answered **NO** to item #14, you have determined no reporting is required for this transaction under Control Section 11.00 of the Budget Act.

15. If the answer to #14 is yes, multiply the total approved project cost from item #2 by 10 percent (0.10).

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16. Is the dollar amount from item #12 greater than the dollar amount from item #15?

Yes: ☐

No: ☐

If you answered **YES** to item #16, you have determined that your transaction requires approval by the Department of Finance and 30-day notification to the Legislature under Control Section 11.00 of the Budget Act. You have completed this Applicability Test for Section 11.00 applicability.

If you answered **NO** to item #16, you have determined no reporting is required for this transaction under Control Section 11.00 of the Budget Act.

**SECTION 11.10
APPLICABILITY TEST**

1. Provide the following identifying information and approval reference data regarding the project:

Business proposal title: _____

Finance-approved business proposal

Date: _____

2. Is this a new agreement? Yes: ☐ No: ☐
- 3a. If you answered **YES** to item #2, what is the total amount of this new agreement? \$: _____
- 3b. If you answered **NO** to item #2, then you are proposing to amend an existing agreement. What is the total amount of the initial agreement and all amendments prior to this amendment? \$: _____
- 3c. If you answered **NO** to item #2, what is the total amount of this agreement amendment? \$ _____
4. Add the amounts identified in items #3b and #3c and place the total here. \$ _____
5. Is the dollar amount from either item #3a or #4 \$1,000,000 or greater? Yes: ☐ No: ☐

If you answered **YES** to item #5, you have determined that your transaction requires approval by the Department of Finance and 30-day notification to the Legislature under Control Section 11.10 of the Budget Act. You have completed this Applicability Test for Section 11.10.

If you answered **NO** to item #5, you have determined no reporting is required for this transaction under Control Section 11.10 of the Budget Act.

SECTION 11.00/11.10 APPLICATION
Information Technology Contracts
(Instructions follow)

Type of Notification: Section 11.00_____ Section 11.10_____ (Check applicable notification type and complete one form for each type of notification, i.e., do not combine Section 11.00 and Section 11.10 notifications on the same form.)

A	Department:	Date	Item No./Fiscal Year	
B	Project Title or Business Proposal Title/Description:	Date of initial State project or business proposal approval:	Date last project or business proposal amendment was approved by State:	Total amount of contracts or agreement: (Item 12 of Section 11.00 Applicability Test, or Item 7 of Section 11.10 Applicability Test)
C	Description of Proposed Change (necessity, rationale, and fiscal benefit for proposed contract/amendment):			
D	Fund Source (specify) For New Contract or Contract Cost Changes	Dollars in thousands		
		Current Year \$ (Fiscal year)	Budget Year \$ (Fiscal year)	Out Years \$ (till end of contract) (Fiscal year(s))
	Reimbursements			
	TOTAL			
E	Benefits	Current Year \$ (Fiscal year)	Budget Year \$ (Fiscal year)	Out Years \$ (until end of contract) (Fiscal year(s))
	Fiscal Benefits			
F	Department Director's Signature	Date:	Budget Officer's Signature	Date:

Department of Finance Use Only

APPROVALS:			
OTROS APBM:			Date:
Program Budget Manager:			Date:
Transmitted to Legislature:	Date:	30 days waiver requested:	Yes: <input type="checkbox"/> No: <input type="checkbox"/>

Section 11.00/11.10 Application Instructions

Enter the Type of Notification, either Section 11.00 or Section 11.10. *Complete one form for each type of notification, i.e., do not combine Section 11.00 and Section 11.10 notifications on the same form.*

- A. Enter the Department Name, Current Date, the Budget Item Number, and Fiscal Year.
- B. Enter the Information Technology Project Title or Business Proposal Title/Description for the information technology contracts or contract amendments that are the subject of this Section 11.00 or Section 11.10 Application.

Enter the date of Initial Project Approval (Feasibility Study Report) or business proposal by the State, and the date of the Last Project Amendment Approval (Special Project Report) or business proposal amendment by the State.

Enter the Total Amount of Contracts since the last approval (capture this amount from item #12 on your completed Section 11.00 Applicability Test or items #3a or #3c on your completed Section 11.10 Applicability Test.)

- C. Give a brief Description of the Proposed Change including the necessity and rationale for the proposed contracts or contract amendments.
- D. By funding source (e.g., General Fund, special funds, federal funds, or reimbursements) indicate the dollar amount of change requested for the Current Year, Budget Year, and the total of all Out Year* augmentations associated with the information technology contracts or contract amendments that are the subject of this Section 11.00 or Section 11.10 Application. **Note: The dollar amount of change is the net of all new contracts, canceled contracts, or contract amendment increases or decreases.**
- E. Enter the Fiscal Benefits of Change as a result of the contract changes in the Current Year, Budget Year, and the total of all Out Years.* **Note: The dollar amount of change is the net of all new contracts, canceled contracts, or contract amendment increases or decreases.**
- F. Application must be signed and dated by the Department Director and Department Budget Officer before submittal.

* Please indicate fiscal year range beginning with Budget year +1 to the end of the contract (e.g., 2006-07 to 2008-09).